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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
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11 THE HOSPITAL COMMITTEE FOR THE  
12 LIVERMORE-PLEASANTON AREAS, a  
13 California non-profit public benefit corporation,  
14 doing business as VALLEYCARE HEALTH  
SYSTEM,

15 Plaintiff,

16 v.

17 HUMANA, INC., a Delaware for-profit  
18 corporation; HUMANA INSURANCE  
19 COMPANY, a Wisconsin for-profit corporation  
and DOES 1 THROUGH 10, INCLUSIVE,

20 Defendants.  
21

Case No.: 3:18-cv-06581-EDL

Assigned to: Hon. Elizabeth D. Laporte

~~[PROPOSED]~~ ORDER GRANTING  
STIPULATED PROTECTIVE ORDER  
RE: CONFIDENTIAL AND/OR  
PROPRIETARY INFORMATION

Complaint Filed: July 27, 2018

1<sup>st</sup> Amended Complaint Filed: Sept. 24, 2018

Removal Filed: October 29, 2018

Pretrial Conference: March 3, 2020

Trial Date: March 23, 2020

22 The Stipulated Protective Order submitted by the parties it hereby Approved, subject to  
23 the following conditions, including adherence to the Ninth Circuit's strict caution against sealing  
24 orders (as set out below):

- 25 1. The parties must make a good-faith determination that any information designated  
26 "confidential" truly warrants protection under Rule 26(c) of the Federal Rules of Civil  
27 Procedure. Designations of material as "confidential" must be narrowly tailored to  
28 include only material for which there is good cause. A pattern of over-designation may

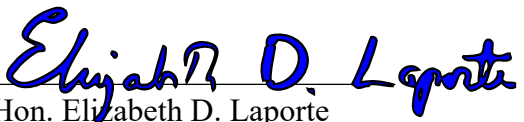
1 lead to an order un-designating all or most materials on a wholesale basis.

- 2 2. In order to be treated as confidential, any materials filed with the Court must be lodged  
3 with a request for filing under seal in compliance with Civil Local Rule 79-5. Please  
4 limit your requests for sealing to only those narrowly tailored portions of materials in  
5 the public file and clearly indicate therein where material has been redacted and sealed.  
6 Each filing requires an individualized sealing order; blanket prospective authorizations  
7 are no longer allowed by Civil Local Rule 79-5.
- 8 3. Chambers copies should include all material – both redacted and unredacted – so that  
9 chambers staff does not have to reassemble the whole brief or declaration. Although  
10 chambers copies should clearly designate which portions are confidential, chambers  
11 copies with confidential materials will be handled like other chambers copies of  
12 materials without special restriction, and will typically be recycled, not shredded.
- 13 4. In *Kamakana v. Honolulu*, 477 F.3d 1172, 1179 (9<sup>th</sup> Cir. 2006), the Ninth Circuit held  
14 that *more* than good cause, indeed, “compelling reasons” are required to seal  
15 documents used in dispositive motions, just as compelling reasons would be needed to  
16 justify a closure of a courtroom during trial. Otherwise, the Ninth Circuit held, public  
17 access to the work of the courts will be unduly compromised. Therefore, no request for  
18 a sealing order will be allowed on summary judgment motions (or other dispositive  
19 motions) unless the movant first shows a “compelling reason,” a substantial higher  
20 standing than “good cause.” This will be true regardless of any stipulations by the  
21 parties. *Counsel are warned that most summary judgment motions and supporting*  
22 *materials should be completely open to public view.* Only social security numbers,  
23 names of juveniles, home addresses and phone numbers, and trade secrets of a  
24 compelling nature (like the recipe for Coca Cola, for example) will qualify. If the  
25 courtroom would not be closed for the information, nor should any summary judgment  
26 proceedings, which are, in effect, a substitute for trial. Motions *in limine* are also part  
27 of the trial and must likewise be laid bare absent compelling reasons. Please comply  
28 fully. Noncompliant submissions are liable to be stricken in their entirety.

- 1           5. Any confidential materials used openly in court hearings or trial will not be treated in  
2           any special manner absent a further order.
- 3           6. This order does not preclude any party from moving to undesignate information or  
4           documents that have been designated as confidential. The party seeking to designate  
5           material as confidential has the burden of establishing that the material is entitled to  
6           protection.
- 7           7. The Court will retain jurisdiction over disputes arising from the proposed and  
8           stipulated protective order for only **NINETY DAYS** after final termination of the  
9           action.

10           **IT IS SO ORDERED.**

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12       DATED: 3/14/19

BY:   
Hon. Elizabeth D. Laporte  
Judge, United States District Court for the  
Northern District of California